

Remarks:

Claims 1-15, 17-29, and 31-34 remain for consideration in this application along with newly added claims 35-39. In view of the forgoing, the rejections of the last office action are respectfully traversed.

5 Applicants wish to thank the Examiner for her courtesy during the recent interview conducted in this case. During that interview, the rejection of the claims on the basis of the Kearney reference was discussed. Applicants have amended claims 1, 10, and 19 to recite that the tamping assembly includes a stationary member proximate the label-receiving area or label-pickup location and that the shifting of the adjacent, hollow bodies occurs relative to this stationary member. As discussed
10 during the interview, the label applicator 38 of Kearney which includes "a plurality of adjacent, hollow bodies" shifts as an entire unit between a label-receiving position and a label-applying position. Kearney does not teach shifting of the hollow bodies relative to a stationary member that forms a part of the label transport and tamping assembly.

The secondary reference cited by the Examiner, Hughes does not overcome the shortcomings
15 of Kearney in that Hughes does not teach any shifting of hollow bodies relative to a stationary member located proximate a label-receiving area. Applicants respectfully request that the §102(b) and §103(a) rejections be withdrawn.

Support for this amendment is found in the drawings as filed, particularly Figs. 3, 4, and 9 and the portions of the specification describing these figures. Therefore, this amendment does not
20 constitute the introduction of new matter into the application.

The Examiner also provisionally rejected claims 1-20 on the basis of statutory type double patent as claiming the same invention as co-pending application 10/460,711. Applicants are

concurrently filing herewith an express abandonment of the '711 application and have attached a copy of this express abandonment hereto. Applicants submit that this express abandonment obviates the provisional double patenting rejection.

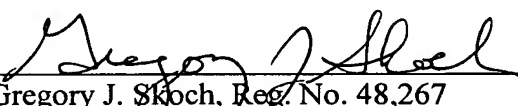
5 The Examiner also rejected claim 30 as being anticipated by Hendrickson, Jr. Applicants have cancelled claim 30 thereby rendering this rejection mute.

The Examiner did not reject a number of claims (4, 5, 13, 14, and 16) on the basis of the cited references, but only for double patenting reasons. In addition, the Examiner indicated in co-pending application 10/460,711 that these claims would be allowable if rewritten in independent form. Accordingly, Applicants have rewritten these claims in independent form as claims 35-39, 10 respectively. Applicants submit that these new claims are also in position for allowance.

Any additional fee which is due in connection with this amendment should be applied against our Deposit Account No. 19-0522.

In view of the foregoing, a Notice of Allowance appears to be in order and such is courteously solicited.

15 Respectfully submitted,

20 By 
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25 ATTORNEYS FOR APPLICANT(S)



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:)
)
HARTE, James A.)
)
Serial No.: 10/460,711)Examiner: PURVIS, SUE A
)
Filed: June 12, 2003)
)
IMPROVED LABELING DEVICE)
HAVING ENHANCED SANITARY)
DESIGN)

Mail Stop: Express Abandonment

Commissioner for Patents
Alexandria, VA 22313-1450

Sir:


EXPRESS ABANDONMENT APPLICATION

Come now applicants, by their attorney and pursuant to Rule 1.138 hereby expressly abandon
the above identified application.

Respectfully submitted,

HOVEY WILLIAMS LLP

By



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(Docket No. 33994)